

Name, Address, Telephone No. &amp; I.D. No.

**UNITED STATES BANKRUPTCY COURT**

SOUTHERN DISTRICT OF CALIFORNIA

325 West "F" Street, San Diego, California 92101-6991

In Re

Debtor.

BANKRUPTCY NO.

Moving Party

RS NO.

Respondent(s)

**MOTION FOR RELIEF FROM AUTOMATIC STAY**☐**REAL PROPERTY**☐**PERSONAL PROPERTY**

Movant in the above-captioned matter moves this Court for an Order granting relief from the automatic stay on the grounds set forth below.

1. A Petition under Chapter ☐ 7 ☐ 11 ☐ 12 ☐ 13 was filed on \_\_\_\_\_.

2. Procedural Status:

a. ☐ Name of Trustee Appointed (if any):

b. ☐ Name of Attorney of Record for Trustee (if any):

c. ☐ (Optional) Prior Filing Information:

Debtor has previously filed a Bankruptcy Petition on: \_\_\_\_\_.

If applicable, the prior case was dismissed on: \_\_\_\_\_.

d. ☐ (If Chapter 13 case): Chapter 13 Plan was confirmed on \_\_\_\_\_ or a confirmation hearing is set for \_\_\_\_\_.

Movant alleges the following in support of its Motion:

1. ☐ The following real property is the subject of this Motion:  
a. Street address of the property including county and state:

b. Type of real property (e.g., single family residence, apartment building, commercial, industrial, condominium, unimproved):

c. Legal description of property is attached as Exhibit A.

- d. If a chapter 11 or 13 case and if non-payment of any post-petition payment is a ground for relief, attach the accounting required by Local Bankruptcy Rule 4001-2(a)(4) as Exhibit B.
- e. \*Fair market value of property as set forth in the Debtor's schedules: \$\_\_\_\_\_.
- f. \*Nature of Debtor's interest in the property:

2. ☐ The following personal property is the subject of this Motion (*describe property*):

- a. Fair market value of property as set forth in the Debtor's schedules: \$\_\_\_\_\_.
- b. Nature of Debtor's interest in the property:

3. \*Fair market value of property according to Movant: \$\_\_\_\_\_.

4. \*Nature of Movant's interest in the property:

5. \*Status of Movant's loan:

- a. Balance owing \_\_\_\_\_
- b. Amount of monthly payment: \$\_\_\_\_\_
- c. Date of last payment: \_\_\_\_\_
- d. If real property,
- i. Date of default: \_\_\_\_\_
- ii. Notice of Default recorded on: \_\_\_\_\_
- iii. Notice of Sale published on: \_\_\_\_\_
- iv. Foreclosure sale currently scheduled for: \_\_\_\_\_
- e. If personal property,
- i. Pre-petition default: \$\_\_\_\_\_ No. of months: \_\_\_\_\_
- ii. Post-petition default: \$\_\_\_\_\_ No. of months: \_\_\_\_\_

6. (*If Chapter 13 Case, state the following:*)

- a. Date of post-petition default: \_\_\_\_\_
- b. Amount of post-petition default: \$\_\_\_\_\_

7. Encumbrances:

- a. Voluntary encumbrances on the property listed in the Schedules or otherwise known to Movant:

Lender Name	Principal Balance	(IF KNOWN) Pre-Petition Arrearages Total Amount - # of Months		Post-Petition Arrearages Total Amount - # of Months	
1st:					
2nd:					
3rd:					
4th:					
Totals for all Liens:	\$	\$		\$	

- b. Involuntary encumbrances of record (e.g., tax, mechanic's, judgment and other liens, lis pendens) as listed in schedules or otherwise known to Movant:
- ☐ See attached page, if necessary.

8. Relief from the automatic stay should be granted because:
- a. ☐ Movant's interest in the property described above is not adequately protected.
  - b. ☐ Debtor has no equity in the ☐ real property ☐ personal property described above and such property is not necessary to an effective reorganization.
  - c. ☐ The property is "single asset real estate", as defined in 11 U.S.C. § 101(51B), and 90 days (or \_\_\_\_\_ days as ordered by this court) have passed since entry of the order for relief in this case, and
    - i. the Debtor/Trustee has not filed a plan of reorganization that has a reasonable possibility of being confirmed within a reasonable time; and
    - ii. the Debtor/Trustee has
      - (1) ☐ not commenced monthly payments to each creditor whose claim is secured by the property (other than a claim secured by a judgment lien or by an unmatured statutory lien), or
      - (2) ☐ commenced payments, but such payments are less than an amount equal to interest at a current fair market rate on the value of each creditors' interest in the property.
  - d. ☐ \*Other cause exists as follows (*specify*): ☐ See attached page.

When required, Movant has filed separate Declarations pursuant to Local Bankruptcy Rule 4001-2(a)(5) and (6).

Movant attaches the following:

- 1. ☐ Other relevant evidence:
- 2. ☐ (*Optional*) Memorandum of points and authorities upon which the moving party will rely.

WHEREFORE, Movant prays that this Court issue an Order granting the following:

- ☐ Relief as requested.
- ☐ Other:

Dated:

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[Attorney for] Movant